

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:	:	
	:	
VERNON 4540 REALTY LLC,	:	
Debtor,	:	
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BRENT CARRIER,	:	<u>ORDER</u>
Appellant,	:	
v.	:	21 CV 5289 (VB)
	:	
45-40 VERNON LP, JSMB 4540 LLC, JSMB	:	
4540 MM LLC, AND CSC 4540, LLC	:	
Appellees.	:	
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By letter dated December 20, 2021, and filed on January 5, 2022, appellant, who is proceeding pro se, moves the Court to stay "the subject Chapter 11 Bankruptcy, its Adversary Proceedings, and the related litigation" under Federal Rule of Bankruptcy Procedure 8007. (Doc. #16). In their response dated January 13, 2022 (Doc. #19), appellees attach the transcript of a July 23, 2021, bench ruling by Judge Drain in the underlying bankruptcy proceeding in this matter (Doc. #19-1), denying a substantially similar motion to stay that was filed by appellant on July 8, 2021.

To obtain a stay of proceedings pursuant to Rule 8007, the movant must demonstrate: (1) he will suffer irreparable injury absent a stay; (2) whether a party will suffer substantial injury if a stay is issued; (3) the movant's likelihood of success on appeal; and (4) the public interest that may be affected. See In re Sabine Oil & Gas Corp., 548 B.R. 674, 681 (Bankr. S.D.N.Y. 2016). The movant's burden proving these elements is a "heavy" one. See In re

Brown, 2020 WL 3264057 at *5 (Bankr. S.D.N.Y June 10, 2020). And stays pending appeal “are the exception, not the rule, and are only granted in limited circumstances.” Id.

Having carefully reviewed the parties’ submissions, the Court finds that appellant fails to meet this heavy burden with respect to any of the above factors, for substantially the reasons discussed in Judge Drain’s July 23, 2021, ruling.

Accordingly, appellant’s motion for a stay is DENIED.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purposes of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Dated: January 18, 2022
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge